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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,904	07/31/2003	Lewis Gruber	09792350-0058	9618
38939	7590	06/28/2005	EXAMINER	
DYKEMA GOSSETT PLLC 10 S. WACKER DR., STE. 2300 CHICAGO, IL 60606			GURZO, PAUL M	
			ART UNIT	PAPER NUMBER

2881

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/630,904	Applicant(s) GRUBER ET AL.	
	Examiner Paul Gurzo	Art Unit 2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-164 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-164 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

Group 1 is drawn to optical trapping.

Group 2 is drawn to a multi-trap system.

Group 3 is drawn to an imaging illumination source.

Group 4 is drawn to a method and system for monitoring movement via an optical data stream.

Group 5 is drawn to movement of cells based on a predetermined movement of each optical trap.

Group 6 is drawn to a computer program that maintains a record of each cell.

Group 7 is drawn to cell sorting of X and Y sperm.

Group 8 is drawn to a method of sorting objects includes the steps of introducing the objects into an input channel at a predetermined flow rate, funneling the objects using a beam steering apparatus, evaluating the objects to determine which meet a predetermined criteria; and sorting the objects which meet said criteria from objects which do not meet said criteria.

Group 9 is drawn to a method of sorting objects including the steps of distributing the objects over a surface of a structure and evaluating the objects in said structure according to a predetermined criteria using a beam steering apparatus.

Group 10 is drawn to a method of sorting objects including the steps of distributing the objects in a gel, detecting the objects which meet a predetermined criteria; and sorting the objects which meet said criteria from objects which do not meet said criteria.

Group 11 is drawn to an apparatus for sorting objects including a plurality of optical traps formed using an optical trapping apparatus an input channel into which the objects are introduced at a predetermined flow rate, and at least one output channel wherein the objects are sorted according to predetermined criteria using said optical traps in a sorting region prior to entering said output channel.

Group 12 is drawn to an apparatus for sorting objects includes means for distributing the objects over a surface of a structure and means for evaluating the objects in said structure according to predetermined criteria using a beam steering apparatus.

Group 13 is drawn to an apparatus for sorting objects includes means for distributing the objects in a gel; means for detecting the objects which meet a predetermined criteria; and means for sorting the objects which meet said criteria from objects which do not meet said criteria.

Group 14 is drawn to a method of sorting objects includes the steps of accessing an object using an optical trap; examining said object to determine its identity, and sorting said identified object according to predetermined criteria.

Group 15 is drawn to an apparatus for sorting objects includes means for accessing an object using an optical trap, means for examining said object to determine its identity, and means for sorting said identified object according to predetermined criteria.

Group 16 is drawn to an apparatus for sorting objects includes a beam steering apparatus including a laser which provides a laser beam for illumination, a diffractive optical element

which diffracts said beam into a plurality of beamlets, an objective lens which converges the beamlet, thereby producing optical gradient conditions resulting in an optical data stream to form an optical trap, and a sample chamber into which the objects are introduced, trapped and sorted:

Group 17 is drawn to a method of manipulating objects includes introducing the objects into an evaluation system, evaluating the objects according to a predetermined criteria using a beam steering apparatus, and manipulating the objects according to said predetermined criteria using said beam steering apparatus.

Group 18 is drawn to a method of destroying objects includes accessing an object using a beam steering apparatus examining said object to determine its identity, sorting said identified object according to predetermined criteria; and destroying said identified object when said object meets said predetermined criteria.

Group 19 is drawn to an apparatus for destroying objects includes means for accessing an object using a beam steering apparatus, means for examining said object to determine its identity, means for sorting said identified object according to predetermined criteria, and means for destroying said identified object when said object meets said predetermined criteria.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is no generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Gurzo whose telephone number is (571) 272-2472. The examiner can normally be reached on M-Fri. 7:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Lee can be reached at (571) 272-2477. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Art Unit: 2881

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PMG


JOHN R. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800